

# Research on Compensation System of Land Expropriation and Requisition

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## ABSTRACT

With the development of our country's economy and the advancement of the urbanization process, the demand for land is increasing, and the phenomenon of land requisition to the countryside around the cities is becoming more and more common, affecting farmers' interests and the social security problem of landless farmers has become increasingly prominent. To deal with the land problem is the most important in the sustainable development of national economy, and the land expropriation compensation system is an important system to maintain the social stability of our country, and an important basis for rational allocation of land resources in our country. Therefore, it is particularly important to perfect the land expropriation compensation system in our country. Relevant government departments should determine reasonable compensation standards for land expropriation based on public interests, so as to reflect the rationality of land expropriation. At the same time, we should improve the compensation measures for land expropriation and requisition to ensure the maximization of farmers' interests.

## KEYWORDS

Land Expropriation and Requisition; Compensation System; Public Interest.

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## 1. PROBLEMS EXISTING IN LAND EXPROPRIATION COMPENSATION SYSTEM

### 1.1. The Concept of "Public Interest" is Vaguely Defined.

China's Constitution and Land Administration Law both clearly stipulate that the need of "public interest" is the prerequisite for land acquisition and requisition, but "public interest" is an abstract and multi-faceted concept, and the current laws and regulations do not clearly define it. At present, land expropriation is the main source of new construction land in our country, but the public interest based on the legitimacy of land expropriation is vague at the legislative level, resulting in all projects in line with urban and rural planning, regardless of their nature, to expropriate farmers' land in the name of "public interest". This expanded the interpretation of "public interest", expanded the scope of land acquisition for "public interest", and eventually led to the abuse of the right of compensation for land acquisition and expropriation by local governments, making land not used for public interests also rely on expropriation and expropriation, and the existence of land expropriation and expropriation compensation system lost its rationality.

## **1.2. The Land Expropriation Compensation Procedure is Not Perfect.**

First, there is no public interest review process. The Constitution and the Land Administration Law clearly stipulate that land acquisition must be in the public interest, but the current law does not specify who and when to review whether it is in the public interest, nor does it specify whether the expropriated person can raise an objection and through what means. If there is no public interest review procedure, even if the scope of public interest is scientifically defined in law, it will lead to confusion in the identification of public interest.

Second, the operation of expropriation compensation procedure is poor, and the expropriated person's participation in the expropriation compensation process is very limited. The procedure of land acquisition developed in the market economy market, more dependent on public power, the pursuit of management convenience and efficiency, and did not pay attention to the rights of farmers. Moreover, the compensation procedure of land expropriation cannot be made open and transparent, and the owners and users of land expropriation can only passively accept the fact of land expropriation, without the relevant right to question, nor can they give opinions on the compensation and resettlement plan. What's more, local governments arbitrarily decide to simplify the expropriation process, seriously ignoring farmers' right to know and participation.

## **1.3. The Compensation Standard for Land Expropriation and Requisition is Unreasonable.**

At present, China's compensation standard for land expropriation is mainly measured on the basis of output value, which can not accurately reflect the actual difference of regional economic development level, and does not consider the compensation of site function and location. I think this kind of compensation standard has two disadvantages: first, this kind of compensation standard is too low to make up for the loss of farmers. Moreover, according to the laws and regulations of our country, the compensation is not directly handed to the farmers at one time, but after layers of interception, the compensation really reached the hands of farmers is very small, farmers' lives are not well guaranteed, which is extremely unfair to farmers, and aroused strong dissatisfaction of farmers, so that the land acquisition behavior is obstructed in every way, and the image of the government is also damaged. Secondly, the calculation method of compensation standard does not take into account the importance of land to farmers, who live on land and passively change their production and life style after land expropriation. The subsequent costs are forced to be borne by the farmers themselves, and the compensation they get is simply not enough to support them to establish a foothold in the city, resulting in a series of problems such as employment and medical care need to be solved.

Moreover, some compensation standards in the Land Administration Law do not specify the amount of compensation, only the maximum limit, such as "the sum of land compensation fees and resettlement fees shall not exceed 30 times the average annual output value of the three years before the land is expropriated", which gives the relevant government departments a lot of discretion space and power, which is easy to cause obvious injustice.

## **1.4. Single Compensation Method for Land Expropriation.**

There are only two ways of compensation for land expropriation and requisition stipulated by law: cash compensation and resettlement housing compensation, and the legal provisions of resettlement housing compensation are not clear enough. This leads to a great dispute in the practice of housing compensation, implementation is more difficult. Land is the life of farmers, and a one-time purchase cannot solve the fundamental problem. Therefore, we should seek necessary compensation methods that are more suitable for farmers, such as alternative land compensation, land for social security, employment training and so on.

Land has always assumed the two core functions of farmers' employment and social security. If farmers do not have land, many employment problems and social security problems will appear to a certain extent. With the reform of China's economic system and the rapid development of economy, the employing system in all walks of life has undergone a fundamental change. The original government resettlement measures can no longer adapt to the landless farmers, and relevant problems slowly appear. At present, the most detailed law stipulating the land expropriation compensation system is the Land Management Law, but the compensation for farmers' land loss in the Land Management Law does not put forward specific methods, which are mainly adopted in the form of currency in various regions. Due to various reasons, such as unreasonable expenses, low compensation costs or rising living costs, monetary compensation can solve the surface problems of land-lost farmers to a certain extent, but cannot solve the core problem that is difficult to adapt to the change of life style, which may lead to some farmers losing both land and work. Moreover, most of the social security systems in rural areas are in a state of vacancy, so the livelihood of landless farmers is a big social problem in the long run. At present, the problems in the practice of land acquisition and expropriation have a great impact on the credibility of the government and the confidence of farmers. If they are not paid attention to and solved, they will inevitably have an impact on the overall situation of future economic development and may lead to social crisis. How to ensure the lives of land-lost farmers is a major issue related to the national economy and people's livelihood, and a major issue related to the harmonious development of society. However, under the current circumstances, the social security system in rural areas of China is not perfect enough, and farmers have not been included in the ranks of social security. If farmers' land is expropriated and requisitioned, their living standards are not guaranteed, or their basic life is difficult, Then the future long-term livelihood is a big problem, difficult to guarantee.

## **2. ANALYSIS OF THE CAUSES OF PROBLEMS IN THE COMPENSATION SYSTEM OF LAND EXPROPRIATION AND REQUISITION IN CHINA**

### **2.1. Reasons for National Legal System**

Law is a code of conduct to adjust the social relations between people. It is the most basic and effective means to adjust the social relations. It has the characteristics of stability, authority and universality. Article 10, paragraph 3, of the Constitution states: "The State may, in the public interest, expropriate or requisition land and give compensation in accordance with the law." Article 2, paragraph 4, of the Land Administration Law stipulates: "The state may expropriate or requisition land and give compensation according to law for the needs of the public interest." These laws only provide for the expropriation and requisition of land in general terms. Up to now, China still does not have a specific and complete "Land acquisition and requisition Law" to systematically regulate the behavior of land expropriation, which leads to the abuse of land expropriation rights, the simplification and ambiguity of land expropriation procedures, and the lack of legal protection for farmers in compensation and distribution. The government has great discretion, and the arbitrariness of land expropriation intensifies the conflicts and contradictions between farmers and the government. Even if the land is not fully and reasonably used, the legitimate rights and interests of farmers will be greatly damaged.

### **2.2. Socio-economic Reasons**

China is a typical country with dual economic structure formed by urban-rural division, and there are huge differences between rural and urban systems. Driven by the dual economic structure, the land expropriation compensation system also comes into being in order to better safeguard the interests of the country and the city. China's Constitution clearly stipulates that land ownership is divided into

state land ownership and collective land ownership. In our country, the transformation of land ownership is one-way, can only change from collective land to state-owned land, can not change from state-owned land to collective land. The reduction of collective land is, for the members of collective economic organizations, a loss of their interests. Moreover, the compensation standard of the current land expropriation compensation system is too low, and farmers can not get reasonable compensation, and their lives can not be effectively guaranteed.

### **2.3. Ideological Reasons**

On the one hand, land right is the most basic right of farmers, and land is the basic guarantee for their survival. However, due to the influence of multiple factors such as history, culture, economy and politics, farmers lack legal awareness, legal concepts and legal knowledge, and they do not know how to use legal weapons to defend their legitimate rights and interests in the process of land acquisition, and some farmers even do not know that they can use law to protect their land rights and interests.

On the other hand, leading cadres in some places cannot always focus on the fundamental interests of the broad masses of the people, have only themselves in mind and no people, and make decisions that are not popular with the public, and all decisions are based on the premise of "keeping the civil servant hat" and are driven by promotion and wealth. And their legal concept is not strong, in the actual work of self-centered, do not act in accordance with the law and regulations, do as they please, deviate from the "people-oriented", "put the interests of the people in the first place" concept, damage the core interests of the broad masses of the people; Some of the leading cadres in some places lack the awareness of studying the law, their understanding of the policy is superficial, and they cannot thoroughly understand the real connotation of the policy. Breaking the law and discipline in their actual work and doing things that undermine public opinion; Some lack of law-abiding awareness, although familiar with the law to understand the policy, but in the actual work to do whatever they want, do not act according to the law, do not act in accordance with the constitution, more law enforcement officers know the law and violate the law, beyond the constitution and legal provisions of the law enforcement work, often do some harm to the people's self-interest, damage the interests of the masses.

## **3. EFFECTIVE SUGGESTIONS FOR IMPROVING LAND EXPROPRIATION COMPENSATION SYSTEM**

### **3.1. Clearly Define the Concept of "Public Interest"**

Only by clearly defining the concept of "public interest" as soon as possible can the scope of land expropriation be regulated, which will help to better limit the right of land expropriation and avoid the abuse of power to a greater extent. The construction of public interest is a non-profit building that can not be measured in money provided by the people's governments at all levels for the unspecified majority under the financial support of the state. The uncertainty of public interest makes different people have different judgment criteria when judging whether the public interest is in line with the public interest. Therefore, in the legislative process, public interest can be elaborated by "generalization", "enumeration", "generalization plus enumeration", etc., so as to restrict the power of relevant departments. In addition, it can also allow the people to participate, on the one hand, effectively protect their legitimate rights, on the other hand, it can also increase the people's trust in the government.

### **3.2. Improve the Compensation Procedures for Land Expropriation and Requisition**

First, strengthen the review of public interest identification. For the necessity review of land acquisition, relevant agencies and their relevant personnel should be designated to strictly abide by

the approval and review procedures, and clarify the responsibility mechanism. At the same time, in order to better eliminate the phenomenon of rent-seeking and frequent multiple land expropriation, it can be led by government leaders and multi-departments, such as the planning bureau and the Land Management Bureau, participate in regular or irregular review whether the expropriated land is in line with the principle of public interest. In the process of examination and identification of public interests, actively listen to the opinions of relevant land managers, experts and institutions, establish a reporting system and a special adjudication body to deal with land expropriation disputes, so that the land expropriated people can obtain effective relief channels, and resolutely do not allow the occurrence of non-public interest uses as public interest uses.

Second, improve the implementation of the announcement, notice, hearing and other procedures in the process of land acquisition, and fully protect the right to know and participate in the land expropriation. On the one hand, through legislation to stipulate the compensation standard for land expropriation and the time limit for resettlement announcements, it not only improves the efficiency of work, but also enables farmers to safeguard their rights and interests. On the other hand, by allowing people to participate in the process of land expropriation and expropriation, they can fully express their opinions when determining compensation standards for land expropriation and expropriation, protect their land rights, and strengthen supervision over the process of land expropriation and expropriation, and standardize the operational process of land expropriation and expropriation.

### **3.3. Establish reasonable Compensation Standards for Land Expropriation and Requisition.**

There are many factors affecting the original use price of land, which is closely related to the output value of land, the location of land, the management right of land contract and the level of local economic development. It is unreasonable to compensate only by the multiple of the output value of land. The original value of the land, local economic development level, local social security and other factors should be considered comprehensively, and reasonable compensation standards should be determined after reasonable evaluation by professional evaluation institutions. This compensation standard should include at least three aspects: one is the land use value, the second is the social security expenses, and the third is the value-added income of the land. In addition, it is necessary to earnestly ensure that the compensation money issued by the government can really reach the hands of farmers, rather than only a small part of it reaching the hands of farmers through layers of interception, which will reduce the occurrence of conflicts, and farmers can better accept and cooperate with the subsequent land acquisition work.

Through legislation, the compensation standard should be legalized, and the principle of market price compensation should be implemented while fully considering the basic living standards of farmers whose land is expropriated. In addition, while the scope of compensation is expanded, the compensation plan is clearly detailed, specific compensation items are unified, compensation is carried out in strict accordance with standards, and the discretionary space and power of government departments are restricted to ensure that land-lost farmers receive fair compensation.

### **3.4. Improve the Compensation Methods for Land Expropriation and Requisition.**

To improve the compensation methods of land expropriation and requisition, the most important thing should be clearly stipulated in the legal system of land expropriation. For example, the applicable circumstances and specific contents of monetary compensation, social insurance resettlement, alternative land compensation, land for social security, resettlement housing compensation and employment training should be clearly stipulated in laws and regulations. These compensation methods are related to the survival of farmers whose land is expropriated and must be implemented in strict accordance with specific requirements. In addition, the compensation methods and contents

determined by the government according to the local economic conditions and specific conditions should also be clearly stipulated through the corresponding laws and regulations, and farmers who have been expropriated can independently choose the compensation methods such as land use rights as shares, dividends, and new employment according to their family living conditions and own development status. However, it is necessary to ensure that the compensation eventually obtained by farmers cannot exceed the total amount of compensation that should be obtained by the land expropriated.

In addition, China's farmers are not highly educated, lack of training opportunities, low cultural quality and labor skills, and after the loss of land, farmers face a significant increase in life and employment risks. In order to better solve the development problem of land-lost farmers and let them live a better life, we should establish a guarantee mechanism for employment training and social services, build a platform for self-employment, provide them with opportunities for education and employment training through various channels, and enhance the ability of land-lost farmers to find employment and start their own businesses, so as to better maintain social security and stability.

#### **4. CONCLUSION**

With the deepening reform of China's economic system and the continuous development of the urbanization process, the land expropriation and requisition work has become more complicated, and new problems will constantly appear in the specific implementation process in the future. As for the existing problems in the land expropriation and expropriation compensation system, such as the definition of "public interest", compensation procedures, compensation standards and compensation methods, it is urgent to scientifically define "public interest" from the legislative aspect, protect farmers' right to know and participation, improve compensation procedures, ensure reasonable compensation standards, and enrich compensation methods. To provide practical, targeted and operable solutions for land expropriation compensation, so as to ensure the smooth development of land expropriation and expropriation work.

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